



**UNITED STATES DEPARTMENT OF COMMERCE**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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20070330

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

### DETAILED ACTION

This Office action is responsive to communication received 01/30/2006 –  
Response.

The reply filed on 01/30/2006 is not fully responsive (see 37 CFR 1.111) to the prior Office Action because of the following omission(s) or matter(s):

The amendment received 01/30/2006 does not comply with 37 CFR §1.173. Specifically, each change made in the claim must be accompanied by an explanation of the support in the disclosure of the parent for the change. In this case, on page 4 of the "REMARKS", the applicant notes the change that is proposed for each of claims 8 and 9, but fails to provide an explanation of the support in the disclosure of the parent for these changes. Applicant should explain the changes made as per 37 CFR §1.173(c). See MPEP Section 1453, page 1400-58 (Original Eighth Edition, August 2001, Latest Revision August 2006) and the section styled, "*Amendment of New Claims*".

Moreover, the applicant has failed to provide the status of all patent claims (i.e., pending or canceled). It is noted that the applicant has requested the cancellation of claims 10, 11 and 12, but has failed to provide the status of patent claims 1-7. See 37 CFR §1.173.

In addition and before the application can be allowed, the amendment to the claims will necessitate a supplemental declaration pursuant to 37 CFR §1.175(b)(1) covering the changes made. A supplemental oath/declaration need not be submitted with each amendment and additional correction. Rather, it is suggested that the reissue

applicant wait until the case is in condition for allowance, and then submit a cumulative supplemental reissue oath/declaration. See MPEP Section 1444.

As a further note and reminder to the applicant, the original patent will also have to be surrendered if the application is allowed. Applicant's letter styled "OFFER TO SURRENDER", received 03/29/2001 is acknowledged.

Upon further review, it has been determined that the **7.5 years maintenance fees have not been paid**. The lapsed patent is U.S. Patent No. 5,938,541. The Official records of the PTO only show that a maintenance fee of \$445.00 for the 3.5 years maintenance fee was received on 02/17/2003. The 7.5 years maintenance fee was due 02/17/2007. The 6-month grace period ends 08/17/2007.

The filing of a reissue application does not alter the schedule of payments of maintenance fees on the original patent. If maintenance fees have not been paid on the original patent as required by 35 U.S.C. 41(b) and 37 CFR 1.20, and the patent has expired, no reissue patent can be granted. 35 U.S.C. 251, first paragraph, only authorizes the granting of a reissue patent for the unexpired term of the original patent. Once a patent has expired, the Commissioner no longer has the authority under 35 U.S.C. 251 to reissue the patent.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 571-272-4413. The examiner can normally be reached on Monday through Friday (6:30AM - 3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.Passaniti/sp  
March 30, 2007

  
**Sebastiano Passaniti**  
Primary Examiner